

**ENTERED**

August 04, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

APRIL M. FLORES,

Plaintiff,

VS.

THE CITY OF SAN BENITO, TEXAS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:20-CV-169

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiff April M. Flores, as mother of Ricardo Trevino III and as the representative of his estate, filed this lawsuit after police officers fatally shot Trevino following a vehicular chase. Flores sued numerous law enforcement officers for unlawful seizure and use of excessive force, and the City of San Benito and Cameron County for failure to train and supervise the officers.

In June 2021, the Court adopted the Report and Recommendation issued by the Magistrate Judge recommending that all claims against the City of San Benito and Cameron County be dismissed, and that some, but not all of the causes of action against the law enforcement officers be dismissed. (Doc. 41)

Previously, Defendants Carlos Cordova and Jose Angel Villareal moved to dismiss based on qualified immunity.<sup>1</sup> (Motion, Doc. 29) The Magistrate Judge deferred ruling on whether Cordova and Villarreal were entitled to qualified immunity for Flores's excessive force claims, concluding that further factual development was needed on the issue. (Order, Doc. 39) The Magistrate Judge ordered that Flores file additional briefing on the matter, which she did. (Brief, Doc. 52)

On July 12, the Magistrate Judge issued a Report and Recommendation, concluding that Cordova is entitled to qualified immunity but Villarreal is not, based on when Flores alleges the

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<sup>1</sup> Eddie Solis also joined the Motion, but all claims brought against Solis have now been dismissed. (Order, Doc. 44)

officers fired shots at Trevino. (Doc. 57) The Report and Recommendation recommends denying the Motion as to Villarreal and granting it as to Cordova. No party filed objections. The Court finds no plain error in the Report and Recommendation.

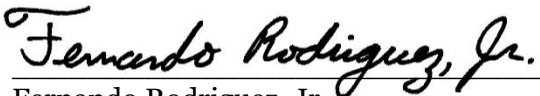
As a result, the Court **ADOPTS** the Report and Recommendation (Doc. 57).

It is **ORDERED** that Defendants' 12(B)(1) & (12(B)(6) Motion to Dismiss Plaintiff's Original Complaint (Doc. 29) is **GRANTED IN PART AND DENIED IN PART**; and

**ORDERED** that all of Plaintiff April M. Flores's excessive force claims against Carlos Cordova are **DISMISSED WITH PREJUDICE**.

All other relief requested in Defendants' 12(B)(1) & (12(B)(6) Motion to Dismiss Plaintiff's Original Complaint (Doc. 29) not expressly granted in this Order or in previous Orders of the Court is **DENIED**.

Signed on August 4, 2021.

  
Fernando Rodriguez, Jr.  
United States District Judge